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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,146	02/17/2004	Richard A. Bye	BP2970	3726
51472 7590 01/22/2009 GARLICK HARRISON & MARKISON P.O. BOX 160727 AUSTIN, TX 78716-0727				
EXAMINER				
CAL WAYNE HUU				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,146

Applicant(s)

BYE, RICHARD A.

Examiner

WAYNE CAI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 5, 2008 have been fully considered but they are not persuasive.

The Applicant argues at page 13 that Pepin et al. fails to teach or suggest "selecting an initial coding scheme from a plurality of supported schemes with a programmable coder/decoder (CODEC)" because Pepin teaches or suggests the adaptive multi-rate speech codec uses a single type of coding scheme and merely switches the bit rate of that particular coding scheme. The Examiner respectfully disagrees.

The Examiner notes that the phrase "coding scheme" is broad, and it is the Examiner's position to give the broadest reasonable interpretation of claim language. The "coding scheme" is broadly and reasonably interpreted as the code set, design or **pattern to encode/decode data**. Hence, even though Pepin only teaches or suggests single type of protocol, that is, AMR protocol. However, Pepin teaches or suggests a plurality of coding schemes as illustrated in figure 3 and figure 4 because Pepin teaches or suggests a plurality of rates speech codec or many different rates speech codec. Each of the rate speech codecs is considered as one of the coding schemes because **each rate speech enables different patterns to encode/decode the data**. Based upon this foregoing explanation, it should be clear to one skilled in the art and the

Applicant that Pepin teaches or suggests "a plurality of coding scheme" as recited within claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 12, 13, 15, 16, 19, 23, 25, 28, 32, 33, 35, 36 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Pepin et al. (hereinafter "Pepin", US 2004/0160979).

Regarding claims 12, 23, and 32, Pepin discloses a method of servicing real-time communications to a Wireless Local Area Network (WLAN) terminal, comprising:
receiving incoming and outgoing user communications at a user interface of a WLAN terminal (i.e., WLAN terminals 102, 106, 120, and 122. Also see paragraphs 0033-0035);

selecting an initial coding scheme from a plurality of supported coding schemes with a programmable COder/DECoder (CODEC) (fig. 3, block 306);

converting incoming user communications from packetized communications and outgoing user communications to packetized communications according to the selected

coding scheme and exchanging packetized communications between a servicing Access Point (AP) of the WLAN and the WLAN terminal at a communication quality level (paragraphs 0008, 0039-0041. Note: in IP network, voice/data is sampled and digitized by the CODEC);

monitoring the communication quality level between the servicing AP and the WLAN terminal to determine the communication quality level delivered between the AP and WLAN terminal (fig. 3, blocks, 300, 302, and 304); and

revising the selected coding scheme from the plurality of supported coding schemes based upon the communication quality level delivered between the AP and WLAN terminal (fig. 3, block 308).

Regarding claim 13, Pepin discloses all limitations recited within claims as described above. Pepin also discloses:

exchanging packetized communications between the WLAN terminal and a far-end terminal (i.e., continuous stream transmission. See paragraph 0037);

monitoring a communication quality level between the WLAN terminal and the far-end terminal to determine the communication quality level delivered between the WLAN terminal and the far-end terminal (fig. 3, block 300-306); and

revising the selected coding scheme from the plurality of supported coding schemes based upon the communication quality level delivered between the WLAN terminal and the far-end terminal (fig. 3, block 308).

Regarding claims 15, 25 and 35, Pepin discloses all limitations recited within claims as described above. Pepin also discloses monitoring the latency of a jitter buffer to determine the communication quality level between the AP and WLAN terminal, and the communication quality level delivered between the WLAN terminal and the far-end terminal (paragraphs 0006, 0011).

Regarding claims 16, 33 and 36, Pepin discloses all limitations recited within claims as described above. Pepin also discloses interacting with the far-end terminal to revise the selected coding scheme (fig. 3 illustrates all the steps of interactions between wireless terminals and adjust the coding scheme).

Regarding claims 19, 28, 39, Pepin discloses all limitations recited within claims as described above. Pepin also discloses wherein the user communications are audio communications (paragraph 0004).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14, 17, 18, 20-22, 24, 26, 27, 29-31, 34, 37, 38 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepin et al. (hereinafter "Pepin", US 2004/0160979).

Regarding claims 14, 24 and 34, Pepin discloses all limitations recited within claims as described above. Pepin also discloses two codec types such as G.711 and G.723.1 (paragraph 0006). Even though Pepin does not expressly disclose all codec types as listed in this claim. However, these codec protocols are known in the art, it is obvious and/or well known in the art to utilize one of these codec types to encode data for transmission. Hence, the claimed feature is not novel.

Regarding claims 17, 18, 26, 27, 37 and 38, Pepin discloses all limitations recited within claims as described above. Pepin also discloses monitoring a plurality of APs by the wireless terminal and selecting the servicing AP based upon an expected service quality level; and wherein monitoring the plurality of APs further comprises: querying at least one of the plurality of APs to determine the expected service quality level from the AP; and registering with a new servicing AP when the expected service quality level to be provided by the new servicing AP exceeds the expected service quality level provided by the servicing AP by a predetermined service quality level.

The Examiner respectfully notes that even though Pepin does not expressly disclose the features of claim 17, 18, 26 and 27. However, the features as described above are simply known as hand-off or hand-over. One skilled in the art would easily conceptualize that once the quality of current serving AP is not as strong as the neighboring AP, then the hand-off should be taken place. Hence, these claimed features are not novel.

Regarding claims 20-22, 29-31 and 40-42, Pepin discloses all limitations recited within claims as described above. Pepin also discloses wherein the user communications are video, but does not expressly disclose the user communication are audiovisual communications, video conferencing communications, and video communications. However, it is obvious to one skilled in the art to utilize the method and system as taught by Pepin and transmit data other than voice. Hence, this claimed feature is not novel.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WAYNE CAI whose telephone number is (571)272-7798. The examiner can normally be reached on Monday-Thursday from 8:00 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wayne Cai/
Examiner, Art Unit 2617

/Alexander Eisen/
Supervisory Patent Examiner, Art Unit 261716-Jan-09